

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ROBERT EMMA, Custodian, IRA, DTD
7/10/97,

Plaintiff,

vs.

RS INVESTMENT MANAGEMENT, L.P.;
PFPC DISTRIBUTORS, INC.; G. RANDALL
HECHT; LEONARD B. AUERBACH;
JEROME S. CONTRO; JOHN W. GLYNN,
JR.; and MICHAEL McCAFFERY,

Defendants, and

RS EMERGING GROWTH FUND,

Nominal Defendant.

Case No. 04-cv-12106-NMG

**DECLARATION OF RICHARD GALLAGHER IN SUPPORT OF
THE RS DEFENDANTS' MOTION TO TRANSFER VENUE**

Richard Gallagher states as follows:

1. I, Richard Gallagher, am counsel to defendants RS Investment Management, L.P. (“RS Investments”), G. Randall Hecht, Leonard B. Auerbach, Jerome S. Contro, John W. Glynn, Jr., Michael McCaffery (collectively, “RS Defendants”) and the nominal defendant RS Emerging Growth Fund (“Fund”) in the above-captioned matter. I am making this Declaration in support of the RS Defendants’ Motion to Transfer Venue. The statements contained herein are made upon information and belief based on my investigation to date in connection with this litigation.

2. The Fund is an open-end investment management company registered under the Investment Company Act. The Fund is a series of the RS Investment Trust (“Trust”), which is a Massachusetts business trust.

3. RS Investments is a California limited partnership with its principal place of business in California. RS Investments is an investment adviser that manages and operates the Fund. RS Investments renders its advisory services to the Fund from California, and maintains no office or employees in Massachusetts.

4. As of December 31, 2004, 10,113 shareholder accounts in the Fund were registered under California addresses. This made California the state with the largest number of registered accounts. As of that date, 669 Fund accounts had registration addresses in Massachusetts.

5. Plaintiff’s Complaint alleges that four of the five individual Defendants reside in California and does not allege that any such defendant resides in Massachusetts. To the best of my knowledge, that allegation is correct.

6. All of the officers of the Trust reside in California. The Trust does not maintain an office in Massachusetts.

7. Since 2000, the Board of Trustees have held almost all of their meetings in California. No Trustee meeting was held in Massachusetts during that time.

8. Since September of 2003, every Board of Trustee meeting has been held in

California.

9. The Trustees' quarterly review of 12b-1 fees occurs at the regular Board of Trustee meetings.

10. Documents related to 12b-1 fee considerations by the Trustees are stored in California.

11. To the best of my knowledge and based upon investigation and belief, the present and former Trustees of the Trust will be material witnesses in this litigation. At least four such Trustees reside in California, and none reside in Massachusetts. Other material witnesses will be certain current and former employees or officers of RS Investments and/or the Trust, who reside in California, with the exception of some former employees or officers that do not currently reside in either Massachusetts or California. I anticipate that the present and former Trustee witnesses, as well as the employee and officer witnesses, will testify as to facts pertaining to the reasonableness of distribution fees in light of various circumstances relating to the Fund, including restrictions on new investors' purchases into the Fund.

12. Based on my investigation to date of the facts underlying plaintiff's claims, I have not become aware of any material, non-attorney witness in this litigation that resides in Massachusetts.

I state under penalty of perjury that the foregoing is true and correct.

Dated: February 16, 2005

/s/ Richard Gallagher
Richard Gallagher